



**4310-EJ**

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**36 CFR Part 7**

**[NPS-PERI-24759; PPMWPERIS0 PPMPSPD1Z.YM0000]**

**RIN 1024-AE41**

**Special Regulations, Areas of the National Park System, Pea Ridge National Military Park; Bicycles**

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service proposes to promulgate special regulations for Pea Ridge National Military Park to allow bicycle use on two proposed multi-use trails located within the park. One trail will be approximately 0.55 miles in length and the other will be approximately 1.17 miles in length. Both trails will require trail construction activities to accommodate bicycles and are therefore considered new trails that will be opened to bicycles. National Park Service regulations require promulgation of a special regulation to designate new trails for bicycle use off park roads and outside developed areas.

**DATES:** Comments on the proposed rule must be received by 11:59 PM EST on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by Regulation Identifier Number (RIN) 1024-AE41, by either of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail or hand deliver to:* Pea Ridge National Military Park, 15930 US Hwy 62 East,

Garfield AR. 72732, Attention: Superintendent.

- *Instructions:* Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park Service” or “NPS” and must include the docket number or RIN (1024-AE41) for this rulemaking. Comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Lee Terzis, NPS Denver Service Center Transportation Division, 1155 E Pearl St. Monticello, FL 32344. Phone (850) 997-9972. Email: [lee\\_terzis@nps.gov](mailto:lee_terzis@nps.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background.**

Pea Ridge National Military Park (the park), established in 1956 and opened to the public in 1963, preserves and commemorates the site of the March 1862 Civil War battle that helped Union forces maintain physical and political control of the State of Missouri. Administered by the National Park Service (NPS), the 4,300-acre battlefield is situated in the foothills of the Ozark Mountains 10 miles north of Rogers, Arkansas, just off of U.S. Highway 62. The park is divided into two sections: the main portion of the park is located north of U.S. Highway 62 and encompasses a majority of the historic battleground. The main portion consists of a dedicated series of soft surface trails for equestrians and pedestrians, as well as the tour road, which bicyclists share with vehicle users. The second, smaller portion is located to the south of U.S. Highway 62 along the bluffs of Little Sugar Creek and contains the Federal Trenches of the

Union troops. This non-contiguous section is currently accessible from a small parking lot along Sugar Creek Road, which intersects with US Highway 62, with a trail leading to the trenches.

The park contains a portion of the northern route of the Trail of Tears that is one of the few places the Trail of Tears passes through Arkansas. Eleven Cherokee Removal contingents used this route from 1837 to 1839. Through the park, the Trail of Tears generally followed the route of Telegraph Road, which is eligible for the National Register of Historic Places.

### **Road and Trail System in the Park.**

The park contains an existing road and trail system (including the Federal Trenches trail) that provides pedestrians, hikers, bicyclists, and equestrians with interpretive and recreational opportunities. This system consists of a total of 32 miles of trail, including 7.6 miles of asphalt trail, 13.9 miles of off-road hiking trail, and 10.8 miles of horse trail. Bicycles are allowed on roads but not on trails within the park.

The area surrounding the park – including local communities such as Pea Ridge, Garfield, Bentonville, Rogers, Springdale, and Fayetteville – has experienced dynamic population growth in recent years. Increased visitation to the park has created a need to improve the existing road and trail system to better accommodate travel through the park by various methods (e.g., automobile, pedestrian, equestrian, bicycle). In addition to enhancing interpretive and recreational opportunities, an improved road and trail system will generate operational efficiencies. There are opportunities to combine trails or locate trails adjacent to other trail types or facilities (e.g., water, restrooms, phones) to maximize the efficiency of performing park maintenance. By removing duplicative trails and infrastructure, the NPS can reduce overall maintenance costs.

## **Trail Plan / Environmental Assessment.**

In November 2017, the NPS published the Pea Ridge National Military Park Trail Master Plan / Environmental Assessment (EA). The EA evaluates two action alternatives that are designed to improve visitor access to the park's historical and interpretive sites while avoiding or minimizing impacts to these sites by consolidating and restructuring the existing trail network. These alternatives also seek to improve multi-modal trail connections within the park while linking to a regional trail network outside of the park. Under both action alternatives, the NPS would expand and enhance opportunities for pedestrian trail interpretation, construct additional trailheads, modify trail loops for simplicity and interpretive value, construct additional ADA-accessible trails, install signage for the Trail of Tears, improve multi-use trails, and improve equestrian trails to avoid erosion-prone areas. These actions will meet the increasing recreational needs of the area while protecting the cultural and natural resources within the park.

The EA identifies one of the action alternatives as the NPS preferred alternative. This alternative would allow bicycle use on two proposed multi-use trails that would require trail construction activities. The first would be a 0.55-mile trail from U.S. Highway 62 to the visitor center. The second would be a 1.17-mile trail from Arkansas Highway 72 to the Sugar Creek Greenway on the western edge of the park. Bicycles would also be allowed on Ford Road, which is closed to motor vehicle use by the public, but open to motor vehicle use for administrative purposes. Bicycles would also be allowed on segments of the Tour Road, which is paved and open to motor vehicle use by the public.

With respect to the proposed bike trails, the EA evaluates (i) the suitability of the trails for bicycle use; and (ii) life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, and methods to protect natural and cultural resources and mitigate

impacts associated with bicycle use on the trails. The EA, which contains a full description of the purpose and need for taking action, scoping, the alternatives considered, maps, and the environmental impacts associated with the project, may be viewed on the park's planning website at <http://parkplanning.nps.gov/peri>, by clicking on the link entitled "Trail Master Plan/Environmental Assessment" and then clicking on the link entitled "Document List."

### **Proposed Rule.**

This proposed rule would implement the preferred alternative in the EA and authorize the Superintendent to designate bicycle use on the two trails described above. In order to accommodate bicycles, both trails will require construction activities that will be conducted in accordance with sustainable trail design principles and guidelines. NPS regulations at 36 CFR 4.30 require a special rule to designate these trails for bicycles use because they are located outside of developed areas. Bicycle use would not be authorized by the Superintendent until the trail construction activities are completed.

The proposed rule would add a new section 7.95 to 36 CFR Part 7—Special Regulations, Areas of the National Park System for the park. The proposed rule would require the Superintendent to notify the public of trail designation for bicycle use and identify the designation on maps available in the office of the Superintendent and other places convenient to the public. The rule would also authorize the Superintendent to establish closures, conditions, or restrictions for bicycle use on designated trails in accordance with 36 CFR 4.30. After notifying the public, the Superintendent would be able to take these actions for reasons of public health and safety, natural and cultural resource protection, and other management activities and objectives.

### **Compliance with Other Laws, Executive Orders and Department Policy.**

### **Regulatory Planning and Review (Executive Orders 12866 and 13563).**

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

### **Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771).**

This rule is not an E.O. 13771 regulatory action because this rule is not significant under Executive Order 12866.

### **Regulatory Flexibility Act.**

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled “Benefit-Cost and Regulatory Flexibility Analyses: Bicycle Trails at Pea Ridge National Military Park” which is available online at <http://parkplanning.nps.gov/peri> by clicking on the link entitled “Trail Master Plan/ Environmental Assessment” and then clicking on the link entitled “Document List.”

**Small Business Regulatory Enforcement Fairness Act.**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

**Unfunded Mandates Reform Act.**

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

**Takings (Executive Order 12630).**

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

**Federalism (Executive Order 13132).**

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of federally-administered lands and waters. It has no outside

effects on other areas. A Federalism summary impact statement is not required.

**Civil Justice Reform (Executive Order 12988).**

This rule complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

**Consultation with Indian tribes (Executive Order 13175 and Department Policy).**

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and has determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Nevertheless, the NPS recognizes that the park contains significant archeological sites and the Trail of Tears, which are considered very important to the following tribes: Absentee Shawnee Tribe, Cherokee Nation of Oklahoma, Jena Band of the Choctaw Indians, The Osage Nation, Shawnee Tribe of Oklahoma, Quapaw Tribe of Oklahoma, United Keetoowah Band of Cherokee Indians, The Chickasaw Nation, Caddo Nation, and the Muscogee (Creek) Nation. The park consulted with these tribes throughout the development of the EA and incorporated comments by adjusting proposed trails to mitigate or avoid impacts to these areas of interest.

**Paperwork Reduction Act.**

This rule does not contain information collection requirements, and a submission to the



Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### **National Environmental Policy Act.**

The NPS has prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. A copy of the EA can be found online at <http://parkplanning.nps.gov/peri>, by clicking on the link entitled “Trail Master Plan/ Environmental Assessment” and then clicking on the link entitled “Document List.”

#### **Effects on the Energy Supply (Executive Order 13211).**

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

#### **Clarity of this rule.**

The NPS is required by Executive Orders 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule the NPS publishes must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that the NPS has not met these requirements, send the NPS comments by one of the methods listed in the **ADDRESSES** section. To better help the NPS revise the rule, your

comments should be as specific as possible. For example, you should identify the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

### **Public Participation.**

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section of this document.

### **Public availability of comments.**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask the NPS in your comment to withhold your personal identifying information from public review, the NPS cannot guarantee that it will be able to do so.

### **List of Subjects in 36 CFR Part 7**

District of Columbia, National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

### **PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM**

1. The authority citation for part 7 continues to read as follows:

**Authority:** 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

2. Add § 7.95 to read as follows:

**§ 7.95 Pea Ridge National Military Park.**

(a) *Bicycle Use.*(1) The Superintendent may designate all or portions of the following trails as open to bicycle use:

(i) A trail from U.S. Highway 62 to the visitor center (approximately 0.55 miles).

(ii) A trail from Arkansas Highway 72 to the Sugar Creek Greenway on the western edge of the park (approximately 1.17 miles).

(2) A map showing trails open to bicycle use will be available at park visitor centers and posted on the park website. The Superintendent will provide notice of all bicycle route designations in accordance with § 1.7 of this chapter. The Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions in accordance with § 4.30 of this chapter.

(b) [Reserved]

---

Jason Larrabee

Principal Deputy Assistant Secretary  
for Fish and Wildlife and Parks

Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks  
[FR Doc. 2018-05414 Filed: 3/15/2018 8:45 am; Publication Date: 3/16/2018]